

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

**REQUEST FOR ENTRY OF DEFAULT AGAINST
DEFENDANTS EXETER CONSTRUCTION, LLC AND DENNIS B. BALLARD**

Pursuant to Rule 55(a) of the Federal Rules of Civil Procedure, Plaintiff Federal Carbide Company (“FCC”), by and through its undersigned counsel, K&L Gates LLP, hereby requests the clerk enter a default on the docket against Defendants Exeter Construction, LLC (“Exeter”) and Dennis B. Ballard (“Ballard”; collectively “Defendants”) for their failure to answer or otherwise respond to the Complaint in this matter.

In support of this request, the undersigned counsel declares pursuant to 28 U.S.C. § 1746 that the following is true and correct:

1. On September 28, 2015, FCC filed the Complaint against Defendants containing counts for fraudulent inducement, breach of contract, breach of warranty and specific performance. [ECF No. 1].

2. On October 6, 2015, FCC caused a copy of the summons and the Complaint to be personally served on Ballard. [ECF No. 6]. A copy of the Proof of Service is attached hereto as Exhibit 1.

3. On October 6, 2015, FCC caused a copy of the summons and the Complaint to be served on Exeter by personally serving the president of Exeter, Dennis B. Ballard. [ECF No. 7]. A copy of the Proof of Service is attached hereto as Exhibit 2.

4. Pursuant to Rule 12(a)(1)(A)(i) of the Federal Rules of Civil Procedure, Defendants were required to serve an answer or otherwise plead to the Complaint on or before October 27, 2015.

5. Neither Defendant has served an answer or any other responsive pleading to the Complaint.

6. Neither Defendant ever requested an extension of time to respond to the Complaint from FCC or the Court.

7. No counsel has entered an appearance in the case for either Defendant.

8. Rule 55(a) of the Federal Rules of Civil Procedure provides that “[w]hen a party against whom a judgment for affirmative relief is sought has failed to plead or otherwise defend, and that failure is shown by affidavit or otherwise, the clerk **must** enter the party’s default.” (emphasis added).

WHEREFORE, Plaintiff Federal Carbide Company respectfully requests that, in accordance with Rule 55(a) of the Federal Rules of Civil Procedure, the clerk enter a default on the docket against Defendant Exeter Construction, LLC and against Defendant Dennis B. Ballard. A proposed entry of default is attached hereto.

Dated: November 12, 2015

/s/ William D. Wickard

Jason L. Richey, Esquire

Pa. I.D. # 78943

William Wickard, Esquire

Pa. I.D. # 87741

K&L Gates LLP

K&L Gates Center

210 Sixth Avenue

Pittsburgh, Pennsylvania 15222

Tel.: (412) 355-6260

*Counsel for Plaintiff
Federal Carbide Company*

CERTIFICATE OF SERVICE

The undersigned certifies that a true and correct copy of the foregoing Request for Default against Defendants Exeter Construction, LLC and Dennis B. Ballard was served via First Class Mail this 12th day of November, 2015 upon the following:

Exeter Construction, LLC
415 S. Carter Road
Smyrna, Delaware 19977

Dennis B. Ballard
415 S. Carter Road
Smyrna, Delaware 19977

Robert M. Palumbi
Babst Calland
Two Gateway Center
Pittsburgh, Pennsylvania 15222

/s/ William D. Wickard